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TO: Examiner Kien T. Nguyen -Art Unit 3712

COMPANY: United States Patent & Trademark Office

FAX NO. (703) 305-3579

FROM: George Gottlieb [Angela Bowie]

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REF: 1136/032

DATE: November 22, 2002

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Attn: Examiner Kien T Nguyen

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**Re: Applicant: David Stein
Title: Waterproof Lyrics Display
Attorney Docket No.: 1136/002
Application No.: 09/998,618
Filing Date: 11/30/01
Art Unit: 3712**

Dear Examiner Nguyen:

Enclosed please find communication from the Applicant, David Stein, dated October 5, 2002.

Please consider this to be a request for re-consideration.

When you have reviewed this communication, kindly contact the undersigned for further discussion.

Very truly yours,

GOTTLIEB, RACKMAN & REISMAN


 George Gottlieb

GG:dab
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 Encl.

*Reconsideration
S. Zimmerman*

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October 5, 2002

212-663-2325

Commissioner of Patents and Trademarks
Washington, DC, 20231
Attn: Kien T. Nguyen, Primary Examiner
Art Unit 3712

Re: Application 09/998,618
Waterproof Lyrics Display
Filing Date: 11/30/2001
Inventor: David Stein

Dear Kien T. Nguyen,

Your first office communication mailed 08/15/2002-- in which my claims 1 - 36 were rejected as being unpatentable over Thurber U.S. Patent 1,087,336-- has been received. In reply, let's begin by reviewing a few key paragraphs of my application:

"This invention aids singing in the shower. A preferred embodiment is a waterproof book of song lyrics which when wetted adheres to the shower wall. For best adhesion, the book has the slim proportions of a magazine (eg. 8.5" x 11" x 1/4") or pamphlet (eg. 5.5" x 8.5" x 1/16"). It is flexibly bound so its wet pages adhere flat to the wall and one another. It is easily moveable on the wall for eye-level viewing by children and adults of different heights. Its large (eg. 18-point) font sizes are easy to read in shadowy light and streaming water. For thicker books, additional support by suction cups or brackets can be provided. Also disclosed are waterproof posters adhering wet to the shower wall and displaying lyrics, photos of musicians, or other art. A series of waterproof lyrics collections (CDs possibly included) would offer singers in the shower all the best of popular song."

"Seventeen percent of Americans, about 40,000,000 people, sing in the shower (American Standard Co. survey, 1999). However, as folksinger Pete Seeger has pointed out, the average singer knows many song melodies, but few of the lyrics. An aid enabling singers in the shower to learn *all* the lyrics of popular songs might therefore sell millions of copies-- and help singers everywhere."

Indeed, my invention could turn every shower in America into a singing school. This could greatly improve music education while reaping profits in the millions. Yet nobody seems ever to have thought of it.

Why? Because although the invention is simple, it is far from obvious. And it most certainly isn't obvious from Thurber 1,087,336, as proven by details:

The preferred embodiment of my waterproof lyrics display is supported by *water adhesion* (Fig. 1A and 1B). A *thin water film* 13 is provided, which adheres the display 12 to shower enclosure surface 10. To maximize this adhesion, the

display is light in weight and proportioned as a slim *magazine* (Page 8, Par. 2) or *pamphlet* (Page 8, Par. 4). It can even be a *single sheet* (Fig. 7A and 7B) of water-proof paper 26 with thin water film 27 adhering to surface 10.

No discovered prior art mentions support by water adhesion, and Thompson doesn't either. He provides no water film. He ignores weight and proportion. If water adhesion were attempted, Thompson's thick top-heavy chart (his Fig. 2) would fall off the wall-- as would even thicker charts suggested by hook 6 (Fig. 6). Even if a Thompson chart were slimly proportioned, his eyelets 5 (Fig. 6) would hold the top of cover 1 slightly away from the wall, interrupting water adhesion-- and causing the chart to fall.

By these arguments, the following claims that recite water adhesion for supporting a waterproof lyrics display should be allowed: Claims 4, 15, 16, 17, 18, 24, 25, 26, 31, 32, 33, and 34.

Other embodiments of my display (Figs. 2 and 3) are supported by *suction cups* (Figs. 4A, 4B, 4C). These suction cups-- like the water adhesion support-- make the display *readily attachable* (Page 2, Par. 2) and *readily detachable* on the shower wall, both display and wall *remaining intact* (Page 3, Par. 1). The suction cups also make the display "*easily moveable* on the wall, for eye-level viewing by children or adults of different heights standing in the shower" (Page 3, Par. 2). These same remarks apply to bracket suction cup 24 (Figs. 5 and 6, and Page 11, Par. 3).

But Thompson's chart, which hangs from a metal hook (shown unnumbered, e.g. in his Figure 1) is not readily attachable to a shower enclosure. The hook must be drilled and screwed into the hard shower surface (tile, stone, glass, fibreglass). Nor is Thompson's hook readily detachable with surface intact-- it leaves an unsightly hole. Not being moveable without tools, Thompson's chart could not adjust to the eye-levels of an average family of children and adults wanting to sing in the shower.

By these arguments, the following claims should be granted: Claim 1 (and dependent claims) reciting a readily attachable support means; Claim 3 reciting readily moveable and attachable support means; Claims 4, 15, 16, 17, 18, 24, 25, 26, 31, 32, 33, and 34, all reciting water adhesion; Claim 7 (and dependent claims) reciting at least one suction cup; Claims 14 (and dependent claim 21), 30, and 36, all reciting at least one suction cup.

Every component of my waterproof lyrics display is waterproof, specifically designed for the downpour in a shower-- the equivalent of several rainstorms daily. In my application, "waterproof paper or plastic" is preferred, "laminated paper" being allowed (Page 9, Par. 2). "Plastic spiral binding" is preferred, "waterproof thread, rings, glue" and "water-resistant" staples being allowed (Page 9, Par. 3). All suction cup designs (Figs. 4A, 4B, 4C) are waterproof "vinyl" (Page 11, Par. 2), avoiding metal parts that might corrode. Book cover 19C (Fig. 4C) is waterproof "vinyl" (Page 11, Par. 2), and bracket 24 (Figs. 5 and 6) is waterproof "plastic or

rubber" (Page 11, Par. 3). This kind of thoroughly waterproof design is critical to displaying anything in a shower.

But as the Office Action admits (Page 3, Par. 3), Thurber fails to teach a *waterproof display*. In fact Thurber's details show he did not consider waterproofing at all. His "paper" chart 8, "cloth" strips 3 and 12, and "stitching" 9 (all in his Fig. 3) would rot when wet. His "metallic eyelets" 5 and "hooks" 4 (Fig. 6) would corrode. His chart would be ruined by one heavy rain, not to mention downpours day after day, month after month, in a shower. His chart is not "adaptable" (Office Action, Page 3, Par 1) to the extreme wet of the shower without changing every detail of its construction.

The Office Action also admits (Page 3, Par. 1) that Thurber fails to teach *display in a shower enclosure*. And he certainly does not teach display of *song lyrics* therein, or that said lyrics must be "easy to read in shadowy light and streaming water" requiring "large font sizes on large pages" (my Page 3, Par. 3). And these factors are absolutely critical to my invention.

By these arguments, all my claims, 1 - 36, reciting a waterproof lyrics display to aid singing in the shower, should be allowed.

The examiner's objections to Claims 13, 14, 18, and 20 for being indefinite are traversed below*****

Respectfully submitted,
David Stein

